

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5692 OF 2008

STATE OF KERALA & ORS.

.....APPELLANT(S)

Versus

V.S. RAVEENDRAN

.....RESPONDENT(S)

ORDER

The respondent filed an application dated 30.9.2001 for grant of a FL3 licence for his restaurant. In 2006, he was informed by the Excise authorities that his application could not be considered and granted as per the then existing law. Feeling aggrieved, the appellant approached the High Court by filing a writ petition. Learned single Judge disposed of the writ petition by order dated 6.12.2006 with a direction to the Excise Commissioner to consider the eligibility of the respondent with reference to the qualifications required as on the date of the application. That was challenged by the State by filing a writ appeal. The writ appeal was dismissed by the Division Bench on the ground of delay. The said order is challenged in this appeal by special leave.

2. On examining the reasons assigned by the appellant State for condonation of delay in filing the appeal before the High Court, we are of the view that the delay ought to have been condoned by the High Court. The appellant should have an opportunity to challenge the order of the learned single Judge on merits as there is an important question relating to applicability of the relevant rules.

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3. We, therefore, allow this appeal, set aside the order of the High Court and condone the delay in filing the appeal before the High Court. Consequently, we request the High Court to dispose of the State's appeal which has stood restored to its file on merits expeditiously.

4. We are informed that after the dismissal of the appeal by the High Court, the State has granted temporary licence to the respondent in December as there was no stay in this appeal. It is stated the respondent has paid the licence fee for the period upto 31.3.2009. In the peculiar circumstances, the licence granted shall continue till the disposal of the appeal or till 31.3.2009 whichever is earlier.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
January 30, 2009.

.....J.
(J.M. PANCHAL)